

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-22614-2011
Decided on: 05.12.2016

Ashok Kumar

.... Petitioner

Versus

Municipal Council, Khanna and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present: Mr. P.S. Khurana, Advocate,
for the petitioner.

Mr. Namit Kumar, Advocate, for
for respondent No.1.

P.B. Bajanthri, J. (Oral)

In the instant writ petition, the petitioner has questioned the validity of the award dated 06.06.2011 (Annexure P-4) passed by the Industrial Tribunal, Ludhiana.

The petitioner is stated to have been appointed as a Sweeper on 04.04.1995 and the services of the petitioner were terminated on 23.12.1999 and he raised an industrial dispute.

The Industrial Tribunal held that petitioner is entitled to one month wages in lieu of notice and benefits under Section 25 of the Industrial Disputes Act.

Learned counsel for the petitioner submitted that in identical matter, this Court in **CWP No.22155 of 2011 “Parkash vs. Municipal Council and another”** modified the Labour Court award to the extent that workman is entitled for reinstatement with continuity in service. The present case is also identical.

Per contra learned counsel for the respondent submitted that

the present case is distinguishable with reference to Parkash's case for the

reasons that in Parkash's case during the pendency of the litigation, there is a proposal for regularising the services of the petitioner therein on 19.12.2011. As in the present case, there is no resolution similar to the case of Parkash. Therefore, it is distinguishable.

It is further submitted that the petitioner has not made out a case so as to interfere with the award passed by the Labour Court.

Heard Learned counsel for parties.

Admittedly, the petitioner joined services in the year 1995 and his services were terminated in the year 1999. He has rendered about 4 years of service. The Supreme Court has held that right to reinstatement with continuity in service and back wages is not applicable in each and every case. It differs from case to case where reinstatement cannot be granted in such matters, compensation would suffice.

Therefore, the award passed in the present case granting one month wages in lieu of notice and benefits under Section 25 of the Industrial Disputes Act is modified and the petitioner be paid a compensation of ₹2,00,000/- within a period of 4 months failing which the respondent is entitled to interest @ 6 % per annum, in light of the principle laid down in the case of *BSNL versus Maan Singh* reported in 2012(1) SCC 558. It is held that compensation would suffice instead of reinstatement, therefore, the award passed by the Labour Court is modified to the above extent.

Petition is disposed of accordingly.

05.12.2016

Dinesh

(P.B. BAJANTHRI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No